

A.G. Contract No : KR05-0207TRN
ECS File No.: JPA 05-006
Project No.: HRF-MAM-0-812
Section: Main Street
Project: Phase II Improvements
TRACS No.: HF112 01C / 01D
Budget Source Item No.: N/A
HURF Exchange Program

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE TOWN OF MAMMOTH

THIS AGREEMENT is entered into this date April 13, 2005, pursuant to Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOWN OF MAMMOTH, acting by and through its MAYOR and TOWN COUNCIL (the "Town").

1 The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated the undersigned the authority to execute this Agreement on behalf of the State.

2 The Town is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the Town.

3 The State has approved the exchange of \$24,120.00 in Highway User Revenue Funds (HURF) in fiscal year 2005 to the Town for **design** of improvements on Main Street between State Route (SR) 77 and Copper Creek Road. Such funds will be repaid to the State by withholding from the Central Arizona Association of Governments (CAAG) federal funds and the obligation authority for federal funds in the amount of \$27,354.00 in fiscal year 2005.

4 The State has approved the exchange of \$136,680.00 in Highway User Revenue Funds (HURF) in fiscal year 2005 to the Town for **construction** of improvements on Main Street between State Route (SR) 77 and Copper Creek Road. Such funds will be repaid to the State by withholding from the Central Arizona Association of Governments (CAAG) federal funds and the obligation authority for federal funds in the amount of \$155,008.00 in fiscal year 2005.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 27455
Filed with the Secretary of State
Date Filed: 04/13/2005

Janice K. Brewer
Secretary of State

By: Don D. Haerwald

II. SCOPE OF WORK**1 The Town shall:**

a. Provide design plans, specifications and other such documents and services required for bidding and construction of the roadway improvements of Main Street

b. Advertise for bids and award one or more construction contracts for the Project. Administer and make all payments to the contractor(s). Be responsible for any additional funds required to complete the project, and for any contractor claims for extra compensation due to delays or whatever reason. Comply with all applicable State laws, rules and regulations.

c. Invoice the State for thirty percent of the \$24,120.00 project design cost for fiscal year 2005, upon award of the construction project.

d. Invoice the State for thirty percent of the \$24,120.00 project design cost for fiscal year 2005, at the thirty percent and sixty percent project construction completion stages.

e. Upon completion, approve and accept the project design as complete. Provide the State with a letter documenting the notice of the approval and acceptance of the Project

f. Invoice the State for the remaining ten percent of the \$24,120.00 project design cost for fiscal year 2005 at the one hundred percent project design completion stage

g. Invoice the State for thirty percent of the \$136,680.00 project construction cost for fiscal year 2005, upon award of the construction project

h. Invoice the state for thirty percent of the \$136,680.00 project construction cost for fiscal year 2005, at the thirty percent and sixty percent project construction completion stages.

i. Upon completion, approve and accept the Project as complete and provide maintenance. Provide the State with a letter documenting the notice of the approval and acceptance of the Project

j. Invoice the State for the remaining ten percent of the \$136,680.00 project construction cost for fiscal year 2005 at the one hundred percent project construction completion stage, after the Town, CAAG and the State (ADOT) representatives have completed final project review.

2. The State shall:

a. Within thirty-days (30) after receipt of an invoice and a letter confirming the design project and construction project has been awarded, advance the Town thirty percent of the HURF funds for design and construction

b. Within 30 days after receipt and approval of design and construction invoices at the thirty and sixty percent construction completion stages, advance the Town HURF funds in the amount of thirty percent at each invoiced stage for design and construction

c. After approval of design and receiving a bid package, invoice the remaining ten percent of the Town HURF funds in the amount of the \$24,120.00 for the design of the roadway improvements of Main Street in fiscal year 2005.

d. Withhold from CAAG, federal funds and the obligation authority of federal funds in an amount of \$27,354.00 in fiscal year 2005 for the design of the roadway improvements of Main Street.

e. Within 30 days after receipt of an invoice and a letter confirming the construction Project has been awarded, advance the Town thirty percent of the HURF funds.

f. Within 30 days after receipt and approval of construction invoices at the thirty and sixty percent construction completion stages, advance the Town HURF funds in the amount of thirty percent at each invoiced stage for construction.

g. After final project review, and within 30 days after receipt and approval of construction, invoice the remaining ten percent of the Town HURF funds in the amount of the \$136,680.00 for the construction of the roadway improvements of Main Street in fiscal year 2005.

h. Withhold from CAAG, federal funds in the obligation authority of federal funds in an amount of \$155,008.00 in fiscal year 2005 for the construction of the roadway improvements of Main Street.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this Agreement, or for any resulting construction project. The Town assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. The Town shall require its contractors to name the State and ADOT as an additional insured in the contractor's policies. The Town shall also require its contractors to name the State and ADOT as an additional indemnitee in the Town's contracts with its contractors. It is understood and agreed that the State's participation is confined solely to advancing Highway User Revenue Funds; that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof, shall be solely the liability of the Town and that to the extent permitted by law, the Town hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or nonperformance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees, the Town, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys' fees.

2. This terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of said Project and related reimbursement, except any provisions for maintenance shall be perpetual, unless assumed by another competent entity. Further, this Agreement may be canceled at any time prior to the award of the Project construction contract, upon thirty-days (30) written notice to the other party. It is understood and agreed that, in the event this Agreement is terminated by the Town, the State shall in no way be obligated to maintain said Project.

3. This Agreement shall become effective upon filing with the Secretary of State.

4. This Agreement may be canceled in accordance with Arizona Revised Statutes § 38-511.

5. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

6. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

7. Non-Availability of Funds: Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

8. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

9. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17th Avenue, Mail Drop 616E
Phoenix, AZ 85007
FAX (602) 712-7424

Town of Mammoth
Attn: Town Clerk
P.O. Box 130
Mammoth, AZ 85618
(520) 487-2331

10. Pursuant to Arizona Revised Statutes, Section 11-952 (D), attached hereto and incorporated herein, is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this Agreement and that the Agreement is in proper form

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

TOWN OF MAMMOTH

STATE OF ARIZONA

Department of Transportation

By


CRAIG WILLIAMS
Mayor

By


DALE BUSKIRK, Division Director
Transportation Planning Division

Date _____

Date 1 April 2005

ATTEST:

By


SHANNON ORTIZ
Town Clerk

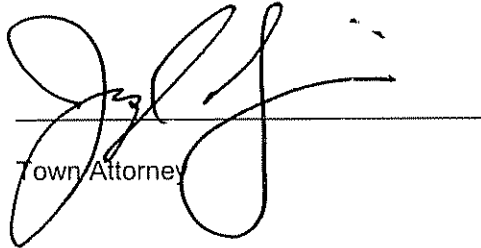
Date _____

JPA 05-006

APPROVAL OF THE TOWN OF MAMMOTH

I have reviewed the above referenced intergovernmental Agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the TOWN OF MAMMOTH, an Agreement among public agencies which, has been reviewed pursuant to A R S § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the TOWN under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 23rd day of March, 2005



Town Attorney

RESOLUTION NO. 2005-004

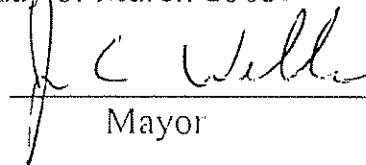
A RESOLUTION OF THE COUNCIL OF THE TOWN OF MAMMOTH, PINAL COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR MAIN STREET PROJECT PHASE II SECTION SR77 TO COPPER CREEK ROAD OF THE HURF EXCHANGE PROGRAM.

BE IT RESOLVED BY THE COUNCIL OF THE TOWN OF MAMMOTH AS FOLLOWS:

SECTION 1. That it is deemed in the best interest of the Town of Mammoth and the citizens thereof that the Intergovernmental Agreement between the Town of Mammoth and the Arizona Department of Transportation be entered into, which agreement is now on file in the office of the Town Clerk of the Town of Mammoth.

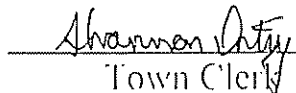
SECTION 2. That the Mayor and Town Clerk be authorized and directed to execute and deliver said agreement on behalf of the Town of Mammoth.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the Town of Mammoth, Pinal County, this 17th day of March 2005.



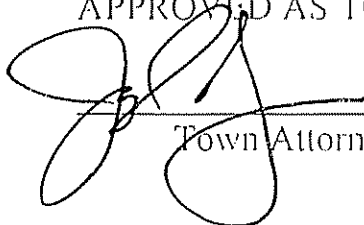
Mayor

ATTEST:



Town Clerk

APPROVED AS TO FORM:



Town Attorney



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE: 602.542.8855

TERRY GODDARD
ATTORNEY GENERAL

INTERAGENCY SERVICE AGREEMENT
DETERMINATION

A.G. Contract No. KR05-0207TRN (**JPA 05-006**), an Agreement between public agencies, i.e., The State of Arizona and The Town of Mammoth, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: April 6, 2005

TERRY GODDARD
Attorney General

A handwritten signature in cursive script, reading "Susan E. Davis".

Susan E. Davis
Assistant Attorney General
Transportation Section

SED:mjf
Attachment
899166